



# PUBLIC NOTICE

Federal Communications Commission  
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DA 04-172

Released: January 23, 2004

## DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL OF LECSTAR TELECOM, INC. TO FONIX CORPORATION

### STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 04-2

On January 5, 2004, LTEL Holdings Corporation (LTEL) and LecStar Telecom, Inc. (LecStar), pursuant to sections 63.03 and 63.04 of the Commission's rules,<sup>1</sup> requested consent to transfer control of LecStar to LTEL Acquisition Corporation (LTEL Acquisition), a wholly-owned subsidiary of Fonix Corporation (Fonix), (together, Applicants).<sup>2</sup>

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(2)(i) of the Commission's rules because: (1) the transaction would result in Fonix, and its affiliates, holding less than a ten percent (10%) share of the interstate, interexchange market; (2) Fonix, through LecStar, will provide local exchange service only in areas served by dominant local exchange carriers (none of which are parties to the proposed transactions); and (3) none of the Applicants or their affiliates are dominant with respect to any service.<sup>3</sup>

LecStar, a wholly-owned subsidiary of LTEL, is a non-dominant carrier that resells domestic long distance service from various facilities based carriers. LecStar holds blanket

<sup>1</sup> 47 C.F.R. §§ 63.03, 63.04; 47 U.S.C. § 214.

<sup>2</sup> Applicants state that they have filed a separate application for consent to transfer control of LecStar's international 214 authorization. Any action on this domestic 214 application is without prejudice to Commission action on other related pending applications.

<sup>3</sup> 47 C.F.R. § 63.03(b)(2)(i). See Letter from EllenAnn Sands, Counsel for LTEL, LecStar, Fonix, and LTEL Acquisition to Federal Communications Commission, WC Docket No. 04-2 (filed January 21, 2004) (Jan. 21 Letter).

section 214 authority to provide domestic telecommunications services.<sup>4</sup> LecStar provides local and long distance telecommunications services in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.<sup>5</sup> Applicants state that LecStar has no affiliates that provide telecommunications services.<sup>6</sup>

LTEL Acquisition and Fonix are incorporated in the state of Delaware. LTEL Acquisition is a holding company which holds no certifications to provide telecommunications service. Fonix is also a holding company that does not provide telecommunications services.<sup>7</sup> Applicants maintain that Fonix has no affiliates that provide telecommunications services.<sup>8</sup>

The Applicants state that grant of this proposed transaction will permit consummation of a transaction whereby Fonix will acquire, through its subsidiary LTEL Acquisition, all of the outstanding capital stock of LTEL, including 100% of the issued and outstanding capital stock of LecStar. Thus, Applicants seek consent to transfer control of LecStar by virtue of a stock purchase transaction involving its corporate parent. Applicants state that LecStar will continue to provide competitive telecommunications services to its existing customers following consummation of the proposed transaction.

The Applicants assert that grant of this transaction will serve the public interest, convenience, and necessity. Applicants contend that consummation of the proposed transaction will result in net benefits to LecStar's customers by strengthening the financial status of LTEL. Applicants argue that the availability of additional financial resources will enhance LecStar's ability to offer a broader range of innovate products and services to customers.

### **GENERAL INFORMATION**

The transfer of control application identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file comments within 14 days and reply comments within 21 days of this notice.<sup>9</sup> Unless otherwise notified by the Commission, Applicants are permitted to transfer on the 31<sup>st</sup> day after

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<sup>4</sup> LecStar DataNet, Inc., an internet service provider holding no certifications or licenses to provide telecommunications services, is also a wholly-owned subsidiary of LTEL.

<sup>5</sup> Jan. 21 Letter at 2.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> See 47 C.F.R. § 63.03(a).

the date of this notice.<sup>10</sup> Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

**In addition, one copy of each pleading must be sent to each of the following:**

- (1) the Commission's duplicating contractor, Qualex International, 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: [qualexint@aol.com](mailto:qualexint@aol.com); facsimile: (202) 863-2898; phone: (202) 863-2893;
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: [twilson@fcc.gov](mailto:twilson@fcc.gov);

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<sup>10</sup> Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

- (3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 6-A461, Washington, D.C. 20554; e-mail: [Dennis.Johnson@fcc.gov](mailto:Dennis.Johnson@fcc.gov);
- (4) Julie Veach, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 5-C124, Washington, D.C. 20554; e-mail: [Julie.Veach@fcc.gov](mailto:Julie.Veach@fcc.gov);
- (5) Christopher Killion, Office of General Counsel, 445 12<sup>th</sup> Street, S.W., Room 8-C740, Washington, D.C. 20554; e-mail: [Christopher.Killion@fcc.gov](mailto:Christopher.Killion@fcc.gov).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

For further information, please contact Tracey Wilson-Parker at (202) 418-1394, or Dennis Johnson at (202) 418-0809.

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